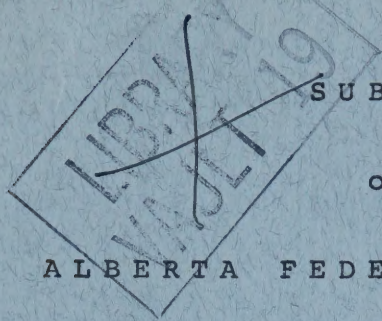


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Submission of the Alberta Federation of
Labour to the Government of Alberta 2



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SUBMISSION
of the
ALBERTA FEDERATION OF LABOUR
to the
GOVERNMENT OF ALBERTA
respecting
BILL 35,
THE ALBERTA LABOUR ACT
April, 1973



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The Alberta Federation of Labour appreciates the opportunity to respond to Bill 35, the Alberta Labour Act, 1973. We have anxiously awaited over many months the presentation of a new Alberta Labour Act. We would be remiss in our duties at the outset if we did not state that we are greatly disappointed in the fact that we have not been presented with a new Alberta Labour Act. It is, in fact, the same old Alberta Labour Act that has been rearranged and amended.

However, it is not our purpose today to put forth a position as to what should or should not be contained in the Alberta Labour Act, but to deal with the amendments in Bill 35 that are of major concern to us. There are some amendments that are of significant importance. We readily accept that some major improvements have appeared in the legislation. For these, we congratulate you.

We do not intend to deal in total with Bill 35 or with all of the areas that are of concern to us, but merely with those sections that we consider to be of major importance.

Part I, Section 5 - Board of Industrial Relations

The legislation fails to recognize the representative nature of the Board of Industrial Relations. We believe this should be given recognition in the legislation in that the membership on the Board should be made up of equal representation from both labour and management.

Ministerial and Board Authority

We are greatly concerned about the expanded authority that has been given to both the Minister of Labour and the Board of Industrial Relations under the Act. It is our contention that there should be a minimum of interference, especially in the field of labour relations by Government, particularly in the areas of collective bargaining. While we recognize that the Board of Industrial Relations must have certain authorities in order to function in a proper manner, our major concern is that the Board has not exercised the authority it has had in the past, especially in making decisions in matters of certifications, unfair labour practices, etc. We must impress upon you that it is most important that the Board bring down its decisions in a much shorter time than it has in the past, and in turn, enforce those decisions once they have been made.

Section 23 - Hours of Work

The provision for forty-four (44) hours work per week to be worked over six (6) days is not in keeping with accepted standards in 1973. Surely, this government can give recognition to a minimum standard of forty (40) hours per week to be worked in a period of five (5) days. The forty-four (44) hour provision is in effect no improvement over what we have had in the past because the forty-four (44) hour workweek has been provided for by Board Orders.

Section 36

This Section allows the Board to establish vacation periods. However, the Board is restricted in granting vacations in that vacations cannot be granted for a period of longer than two (2) weeks. If the Board is to be given authority to grant vacations, surely it is only right that they should be allowed to grant vacations for periods of longer than two weeks to those employees who have longer years of service with an employer.

Section 38 - Termination of Employment

This type of legislation is merely permissive and is meaningless until such time as the Board passes Orders implementing these provisions. We suggest that the provisions outlined in Section 38 should be a requirement upon all employers, and that the Board should be given authority to make provisions for notice of termination and for pay in lieu of notice greater than that provided in Section 38 where circumstances warrant it. If your Government is prepared to give the Board more authority, and it is apparent that you have done so, then we suggest that at the same time you give the Board more latitude when it comes to establishing Orders on matters such as termination and vacations with pay.

Coverage of Act

We must strongly object to the exclusion from coverage under the Alberta Labour Act of all those employees excluded under Section 2 and those persons who are denied the right to organize and carry on collective bargaining under Part 4, spelled out in Section 49 (h) (i).

Section 49 (1) (i)

"Employers' organization" should be confined to acting on behalf of employers in one trade jurisdiction. It should not be a catch-all organization taking in any number of trade jurisdictions.

Sections 55 & 67

These Sections must be rewritten in order to properly spell out the intent as in the present Act. We understand the Department of Labour is aware of the problem, and amended wording will be forthcoming.

Sections 59 & 155

Both of these Sections are unnecessary Government interference. No other organizations in our society are subjected to such interference on the part of the Government. On one hand, the Government insists that the union file its constitution with the Board and other provisions are made throughout the Act that require the trade unions to accept certain responsibilities, then on the other hand, deny unions the right to take disciplinary action against members under the terms of their own constitutions. If your Government is sincerely concerned about the rights of the individual members of trade unions, then we

suggest that adequate protection is now afforded under the Alberta Bill of Rights and the Individual Rights Protection Act. It is not necessary to clutter up the Labour Act with this type of regulation. Trade unions are responsible organizations and make provisions for your concerns in the constitutions which are democratically established.

Section 72 (2) (c) (ii)

The only date that should be used for determination of those employees eligible to vote is the date the application for certification was made, and not on such other date or dates fixed by the Board. To establish other dates than the date of application only allows employers to pad voters lists, hire extra employees, and use any other method at their disposal to defeat the union organization (and this has been done).

We most certainly congratulate the Minister of Labour on the amendments to voting requirements which now extend the same rules of democracy to trade unions as to other organizations in this society, and that is the majority of those people voting will make the decision.

Section 73 (2) - Refusal to certify where picketing has occurred

We strongly object to this type of restrictive legislation. It is a denial of the right of free speech, and there is no place for this type of legislation, or requirement for it, in the Province of Alberta.

Section 75

We strongly object to an employer having the right to apply to the Board for a consolidation of certificates of one or more bargaining agents. The only people that should make that determination are the trade unions themselves, and the membership thereof. This type of arrangement should not be the business of the employer, and the employer should not have the right to force a shotgun marriage upon trade unions.

Section 76 (1)

This should be rewritten to provide that there must be prima facie evidence that the majority of the employees in the unit are making the application for revocation of certification. This is the rule that applies to an application for certification and the same rule should apply to revocation of certification.

Section 82

The employer should not be allowed to bring in two or more unions under a registration certificate. This is the same type of shotgun marriage arrangement that we have previously referred to under Section 75. Two or more trade unions should not be compelled to bargain with an employer's organization jointly unless it is their desire to do so.

Section 93 (2) (a) and (b)

We must strongly object to the words "will be" in (a), and the words "will have" in (b). We believe it is incumbent upon any employer's organization to prove to the Board that they are in fact a proper organization to be registered at the time of registration, and not merely be in a position of making a statement before the Board that they will be at some future date a proper organization.

Division 7 - Collective Bargaining

We merely state here that there is a general improvement under the provisions of this Section. However, we would hope that as a result of the expanded powers of the Minister under the Act, that he does not take it upon himself to superimpose these powers on every collective bargaining situation that arises in the province.

Section 123 - Strike Votes

Alberta is the only jurisdiction in Canada in which the Government supervises strike votes of trade unions. We have raised this issue with the Minister of Labour and with Members of the Cabinet on previous occasions. We cannot too strongly state to you today that the trade unions are quite capable of conducting their own strike votes, and it is totally unnecessary for the Government to become involved in the affairs of trade unions. We would request that you delete all reference to government-supervised **strike votes**.

Once again, we would congratulate the Minister on recognizing the democratic process is carried out by the majority of those casting ballots, rather than the majority of those eligible to do so. You have our strongest support in this area.

Section 134 - Picketing

This is the most restrictive picketing legislation in any jurisdiction in Canada. To restrict employees to picketing at the employees' place of employment rather than at the employer's place of business only favours the multi-national corporations which can carry on their business through the many subsidiaries and multitude of operations throughout this province and throughout the country. Picketing at only the employees' place of employment will have virtually no effect on a large corporation that conducts its business through various outlets and operations. This type of legislation clearly gives the employer an unfair advantage in a strike or lockout situation. It is incomprehensible that the Government of Alberta would restrict the rights of worker in Alberta for the benefit of multi-national corporations.

Division 10 - Voluntary Collective Bargaining Arbitration

This whole section is nothing more than window dressing in the Alberta Labour Act. The parties to the collective bargaining process were free to use this means of settlement even under the old Act where it was not provided for. However, if this is a forerunner to compulsory arbitration, we most vociferously oppose it.

Division 11 - Collective Agreement Arbitration

We have previously requested that a privative clause be inserted in this section similar to that provided in the Canada Labour Code that would protect the awards of arbitration boards. If unions and management are to use arbitration procedures to settle disputes during the term of a collective agreement, then surely the decisions of arbitration boards should be, in fact, final and binding, and not be subject to review by the courts.

Section 150 - Spin-offs

We congratulate the Minister of Labour on living up to his public commitment to deal with the matter of spin-off companies. It would appear that Section 150 adequately covers this matter, and we certainly support you in bringing forth these provisions.

Sections 168 - 171

The penalties for offences under the Act are totally unfair in that the same penalties apply to the employee as do to the employer. Surely if the employee is subject to \$1,000 per day fine, the employer should be subject to a much heavier fine. Where is the relationship to the ability to pay in this game? We would suggest that if the employee is subject to a \$1,000 per day fine, the employer should be subject to the very least a \$1,000 per day fine for each of his employees.

Sections 163 - 165 - Emergency Procedures in Public Emergency Tribunals

There is absolutely no need for this type of legislation under the Alberta Labour Act. As long as these provisions remain in labour legislation, employers, especially those in the public sector such as municipal councils, school boards, etc., will use this as a crutch and will in fact not carry on collective bargaining in the sense that it should be carried on, and rely on the government to impose compulsory arbitration to bring about settlements. We are not aware of one case where a true emergency existed in the Province of Alberta.

The implementation of the Emergency Procedures twice in the past year in the case of teachers' strikes has now established in the minds of the school trustees, the teachers and the public that no teachers' strike will last beyond two or three weeks. Meaningful collective bargaining cannot take place under these conditions. We predict that more strikes will occur in this area in the future if these provisions remain in the Act.

Free collective bargaining does not take place as long as employers can rely on the Provincial Government to bail them out of these situations through the imposition of back-to-work regulations and the imposition of compulsory arbitration. Compulsory arbitration does not make for good labour-management relationships, nor does it bring about settlements that are acceptable to the parties in dispute. If we are to have a truly free and democratic society, then there is not any place for compulsory arbitration provisions under the Statutes of Alberta. If, at some time in the future, a real emergency did exist in the Province of Alberta, then we believe it is the responsibility of the Government to deal with this in the Legislative Assembly of this Province and not through Ministerial Orders. Compulsory arbitration provisions in legislation do not prevent disputes from happening. On the contrary, free and meaningful collective bargaining does not take place. The parties more often end up in disagreement, and as a result, strikes and lockouts occur when under ordinary circumstances a collective agreement would have been settled.

We urge you in the interests of improved labour-management relationships that these Sections be removed from the Bill.

Again, we express our sincere appreciation for the opportunity to appear before you here today to deal with some of labour movement's concerns respecting Bill 35, the Alberta Labour Act.

Respectfully submitted on behalf of

THE ALBERTA FEDERATION OF LABOUR, CLC

